

International Environmental Law and Migration: Fitting the Bill?

Nicole de Moor

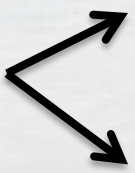
IUCN's Academy of Environmental Law

10th Annual Colloquium on "Global Environmental Law at a Crossroads"

1-5 July 2012, University of Maryland School of Law

“One of the gravest effects of climate change may be those on human migration”

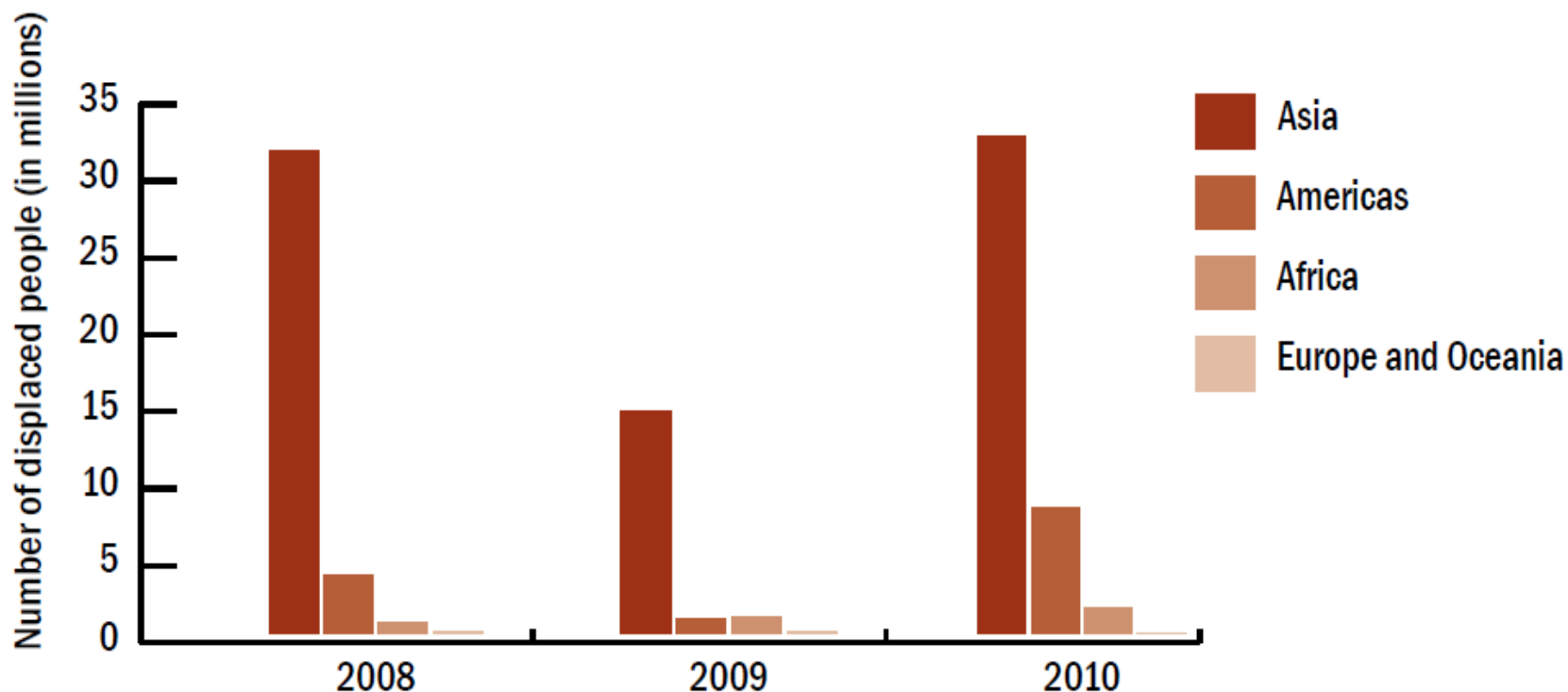
Intergovernmental Panel on Climate Change (IPCC) 1990



Sudden-onset disasters (e.g. earthquakes, floods, hurricanes, volcanic eruptions,...)

Slow-onset degradation (e.g. sea level rise, desertification,...)

Figure 9 Numbers displaced by continent, 2008-2010



Source: Study by the Internal Displacement Monitoring Centre (IDMC) of the Norwegian Refugee Council (NRC), June 2011.



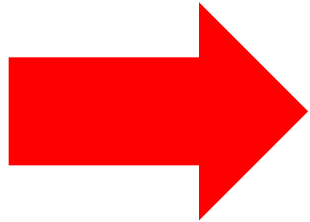
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graph TD; A([Environmental degradation]) --> B[OUT-migration]; A --> C[Migration INTO vulnerable areas]; A --> D[Immobility]
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Environmental degradation

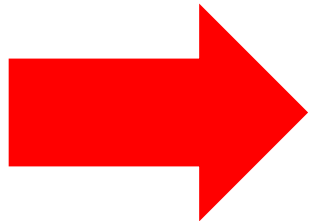
OUT-
migration

Migration INTO
vulnerable areas

Immobility



Forced displacement



Migration as an adaptation strategy

1. Emergence of migration in the UNFCCC regime

2. Paragraph 14(f) of the Cancun Adaptation Framework

- Form and content
- Implementation
 - National Adaptation Programmes of Action (NAPAs)
 - Adaptation Funding

Conclusion

Emergence of migration in the UNFCCC regime

- Intensive advocacy by the humanitarian community
- Field based research of the academic community
- Operational experience of UN and other organisations

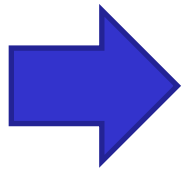


Negotiations for COP 14 in Poznan (December 2008):

Mentioning in first submissions to the AWG-LCA (by the IASC, the UNU-EHS, IOM, UNEP, the Munich Re Foundation, and UNHCR)

!!! Migration first time mentioned in UNFCCC assembly text !!!

? *Party positions* ?



No objections !

- technical issue within larger adaptation package
- « environmental » negotiators
- non-political issue

From “climate refugees” ...

Draft negotiation text of May 2009:

25. The adaptation [framework][programme] shall support and enhance the implementation of national adaptation plans. Adaptation action includes:

...

(e) Activities related to **national and international migration/planned relocation of climate refugees.**

From “climate refugees” ...

... to a more nuanced and differentiated view

Revised negotiation text of June 2009:

25. [The adaptation [framework][programme] [shall] [should] support and enhance the implementation of national adaptation programmes, projects, actions and plans. [Adaptation action] [National Adaptation Plan] includes:]

(e) [Activities related to **national and international migration/planned relocation of climate [refugees] [migrants] [displaced persons by extreme climate events].**]

Paragraph 14(f) of the Cancun Adaptation Framework

14. Invites all Parties to enhance action on adaptation under the Cancun Adaptation Framework, taking into account their common but differentiated responsibilities and respective capabilities, and specific national and regional development priorities, objectives and circumstances, by undertaking, inter alia, the following

...

f) Measures to enhance understanding, coordination and cooperation with regard to climate change induced displacement, migration and planned relocation, where appropriate, at national, regional and international levels

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Paragraph 14(f) of the Cancun Adaptation Framework

- ➔ Type of mobility: migration, displacement and planned relocation
- ➔ Type of action: understanding, coordination and cooperation
- ➔ Level of action: national, regional and international level

Implementation of paragraph 14(f)

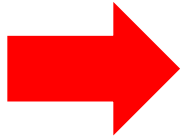
1. National Adaptation Programmes of Action (NAPAs)

2. Adaptation Funding

1. National Adaptation Programmes of Action (NAPAs)

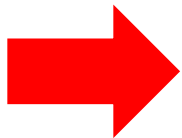
- Variety of ways to address migration in the NAPAs
 - ✓ Seasonal and rural-urban migration
 - ✓ Resettlement and displacement
 - ✓ No mentioning at all
- Focus on migration as a negative consequence of global warming
 - efforts to limit or halt migration
- Not much incorporation into the list of priority adaptation actions

1. National Adaptation Programmes of Action (NAPAs)



LIMITATIONS

- no integration with development policies
- no consultation of vulnerable communities



RECOMMENDATIONS

- integration with development policies
- consultation of vulnerable communities
- integration of migration-related adaptation actions
- recognition of migration as a positive adaptation strategy

2. Adaptation Funding

Migration might qualify for adaptation funding

BUT...

- * which migration-related projects?
- * which funding mechanisms?
 - fast-track finance system?
 - Green Climate Fund?
 - who is entitled?
 - destination areas?

CONCLUSION

- First ever mentioning of migration in an official COP decision
- Stimulus for migration-related adaptation projects
- Migration might qualify for adaptation funding
- Precedent for other (environmental) fora
- Catalyst for national action on climate-related human mobility

!!! Limits of the international climate regime

- no new legally-binding obligations for states through COP decisions
- no migration rights / no migration policy



ENVIRONMENTAL LAW & MIGRATION LAW NEEDED

Thank you for your attention

